

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

*SENTENCING
hearing*

4 UNITED STATES OF AMERICA, : Criminal Action Number
5 :
versus : 1:18-CR-214
6 :
BOBBY PERKINS, JR., :
7 :
Defendant. : August 31, 2018
-----x

8 The above-entitled Sentencing was continued
9 before the Honorable T.S. Ellis, III, United States District
Judge.

A P P E A R A N C E S

10 FOR THE GOVERNMENT:

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15 FOR THE DEFENDANT:

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20
21 OFFICIAL UNITED STATES COURT REPORTER:

22 MS. TONIA M. HARRIS, RPR
23 United States District Court
24 Eastern District of Virginia
25 401 Courthouse Square
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Alexandria, VA 22314

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PROCEEDINGS

(Court proceedings commenced at 11:51 a.m.)

THE DEPUTY CLERK: The United States versus Bobby Perkins, Jr., Criminal Case No. 1:18-CR-214.

THE COURT: All right. Who is here for the Government?

MR. BLANCHARD: Good morning, Your Honor. Alex Blanchard for the United States.

MR. LATSIOS: Good morning, Your Honor. Dean Latsios for Mr. Perkins.

THE COURT: Good morning, Mr. Latsios. We'll await the arrival of the plaintiff [sic], who is now in the courtroom in the custody of the marshals.

Good morning, Mr. Riley [sic]. You may be seated, sir.

MR. LATSIOS: Perkins.

THE COURT: Perkins. I'm sorry. Mr. Perkins, good morning.

THE DEFENDANT: Good morning.

THE COURT: Mr. Perkins is before the Court for sentencing. This defendant having been found guilty on the basis of a plea of three counts: conspiracy to distribute and possession with intent to distribute marijuana, and cocaine base, 28 grams of marijuana, and 100 grams or more of heroin. No, it's 28 grams or more of cocaine base. Marijuana there

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1 wasn't a substance. And also 100 grams or more of heroin.
2 And Count 2 was the use and carrying of a firearm in relation
3 to a drug trafficking crime. And Count 3 was dealing in
4 firearms without a license.

5 Let me inquire, Mr. Latsios, whether you've had an
6 adequate opportunity to review the presentence report and to
7 review it with your client?

8 MR. LATSIOS: I have, Judge.

9 THE COURT: And Mr. Perkins, have you had an
10 adequate opportunity to read and review the presentence report
11 and review it with your counsel, Mr. Latsios?

12 THE DEFENDANT: Yes, sir, I have.

13 THE COURT: And are you fully satisfied with the
14 advice and counsel he's provided to you in this case?

15 THE DEFENDANT: I am.

16 THE COURT: All right, sir, you may be seated.

17 All right. The -- are there any objections or
18 corrections to the presentence report?

19 Mr. Latsios, I think you've raised a question about
20 grouping.

21 MR. LATSIOS: Actually, Judge I did with the
22 probation officer but I did not -- I was wrong. So --

23 THE COURT: Because there really can't be any
24 objection to -- there can't be grouping.

25 All right. Let me -- so there are no objections,

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1 Mr. Latsios?

2 MR. LATSIOS: That's correct, Judge.

3 THE COURT: Now, for the Government. Mr. Blanchard,
4 does the Government have any objections?

5 MR. BLANCHARD: No, Your Honor.

6 THE COURT: All right. The Court will, therefore,
7 adopt the findings and conclusions of the presentence
8 investigation report as the Court's findings and conclusions
9 in this matter. And we will proceed now to allocution and
10 argument. I do have a number of attachments, Mr. Latsios,
11 that I will ensure go forward with his record, his airport
12 firefighter certification and his HazMat Awareness and
13 Operations certificate. Firefighter 1 and 2 I also have. I
14 will make all of those a part of the presentence report.

15 Is there anything else I should make a part of the
16 presentence report, Mr. Latsios?

17 MR. LATSIOS: Judge, no, but I have a letter from
18 somebody -- I just got recently from Mr. Perkins behalf.

19 THE COURT: Yes, I have. Let me review those
20 because I've read those. I have a letter from his wife Tyece
21 Humphrey, is that right?

22 MR. LATSIOS: That's correct.

23 THE COURT: I also have a letter from his mother,
24 the Reverend Mary Proctor.

25 MR. LATSIOS: That's correct.

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1 THE COURT: Who I see is present in the courtroom.
2 I've read that as well. And I have a letter also from Dr.
3 JoAnn Perkins. And finally, I have a letter from Ms. Sherry
4 Wyatt.

5 Do I have everything, Mr. Latsios?

6 And I see Ms. Wyatt present in the courtroom as
7 well.

8 MR. LATSIOS: There is another one that I received
9 the other day after I received the memorandum. I've given it
10 to counsel.

11 THE COURT: All right. Give it to the court
12 security officer and I'll read it now.

13 (A pause in the proceedings.)

14 THE COURT: It's a letter from Jerome Brown, the
15 president of BHB Masonry. I have that Jerome Brown. I'll
16 make that a part of the record as well.

17 MR. LATSIOS: Thank you.

18 THE COURT: Now, the Court is restricted in this
19 case in its ability to exercise judgment as to sentence,
20 because as to Count 1 there is a mandatory minimum term of
21 imprisonment of five years. Am I correct?

22 MR. BLANCHARD: That's correct, Your Honor.

23 THE COURT: And as to Count 2, there's a mandatory
24 minimum consecutive term of imprisonment of five years.

25 MR. BLANCHARD: That's correct, Your Honor.

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1 THE COURT: And as to Count 3, there it's -- it's
2 limited to five years, but it doesn't have to be concurrent or
3 consecutive.

4 MR. BLANCHARD: That's correct, Your Honor. Maximum
5 of five years.

6 THE COURT: All right. So that's where we are, I
7 think, Mr. Latsios. I'll hear from you now on the appropriate
8 sentence.

9 MR. LATSIOS: Your Honor, in 2017 the sentencing
10 commission accomplished a study which showed a direct
11 correlation between criminal history points and recidivism.

12 THE COURT: Showed a direct correlation between.

13 MR. LATSIOS: Criminal history points and
14 recidivism, rate of recidivism.

15 THE COURT: Yes.

16 MR. LATSIOS: So lower points/lower rate, higher
17 points/ higher rate.

18 THE COURT: Which, of course, any intuitive and
19 experienced person would say: Of course, that's obvious.

20 MR. LATSIOS: Well, it's --

21 THE COURT: But it's now confirmed empirically.

22 MR. LATSIOS: Right. People who have zero criminal
23 history points at the lowest rate of recidivism overall,
24 according to the study and it was the 25,431 inmates that were
25 released in the course of 2005. It was -- overall the rate of

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1 recidivism was 30.2 percent. And of those people who were
2 recidivist, the most serious offense usually in the rearrest,
3 was what they call the public order offense. It wasn't an
4 assault, it wasn't a violent crime.

5 Mr. Perkins had zero criminal history points and
6 he's in the group that has the lowest rate of recidivism. And
7 this, I think, relevant to two aims of sentencing which is
8 deterrence and to protect the public from further crimes of
9 Mr. Perkins. Clearly you need to address those issues in your
10 sentence, but the significance is lessened in this case
11 because Mr. Perkins is in a group that historically has the
12 lowest rate of recidivism.

13 And the zero points that he has is consistent with
14 his history and characteristics, which are set out in the
15 presentence report and explained in greater detail in the
16 letters that were submitted on his behalf. He's intelligent.
17 He's hard working. He's a 29-year-old male. He's a former
18 United States Marine. He's a skilled electrician. He's a
19 loving husband and father to three young daughters. He
20 obtained his GED at age 16, which I think is very impressive,
21 Judge. In the presentence report it says he was expelled from
22 high school in the 10th grade. Usually you're about 15 years
23 old in 10th grade. At the age of 16 he obtained his GED.
24 That's -- that's a testament to his academic acumen and his
25 intelligence as well as his motivation to get the GED. And

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1 all of those things are set forth in the character letters
2 which are submitted, which you've read.

3 I would like to point out that contrary to what the
4 Government put in their memorandum, in the presentence report
5 Mr. Perkins has no significant history of violence set out in
6 his criminal history category in the criminal history section
7 of the report.

8 His involvement in this case, I think, is a result
9 of purely, as you know and you talk about, wrong decisions and
10 wrong consequences. He made the wrong decision. He
11 understands that. But this is not a situation where his
12 decision to get involved in his case is a result of innate
13 criminal orientation. And the criminal history score supports
14 that.

15 And we're asking, as you know, in our memorandum and
16 you know there is a limit to what you can do, we're asking
17 that you consider a variant sentence down to the mandatory
18 minimum on the first count, Count 1 of five years. That
19 cannot -- three has a maximum of five years. The guideline
20 above that, so you can't go more than five. We're asking that
21 you impose a five-year sentence on Count 3 and run it
22 concurrent with Count 1.

23 And then Count 2 had -- it's a 924(c) count with a
24 mandatory consecutive sentence of at least five years. We're
25 asking for you to impose a five-year mandatory minimum on

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1 Count 3 -- Count 2 consecutive to Counts 1 and 2 -- I mean
2 Counts 1 and 3. That would leave a total imprisonment term of
3 120 months, which I think is a significant term of
4 imprisonment and I think it's sufficient but not greater than
5 necessary to achieve the aid of sentencing.

6 THE COURT: All right.

7 MR. LATSIOS: Mr. Perkins would request, Judge, that
8 a recommendation that he would be assigned to Petersburg if
9 that's at all possible.

10 THE COURT: All right. Mr. Blanchard.

11 MR. BLANCHARD: Your Honor, the Section 3553(a)
12 factors counsel strongly is in favor of a lengthy term of
13 imprisonment in this case.

14 Mr. Perkins organized, supervised and participated
15 in armed drug distribution conspiracy. And in so doing caused
16 substantial quantities of highly addictive, potentially lethal
17 drugs to be brought into a relatively small community in
18 Stafford. That included 200 grams of crack cocaine and 200
19 grams of heroin.

20 The seriousness of Mr. Perkins dealing in firearms
21 without a license is practically self evident, Your Honor. At
22 this juncture 224 known handguns were resold by Mr. Perkins.
23 Some, by his own admission, to individuals that he knew were
24 convicted felons at the time that he sold them.

25 And, Your Honor, if you look at the now 94 guns that

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1 have been recovered by law enforcement, and in my position
2 paper I noted that it was 93, one was recovered yesterday
3 afternoon during the execution of the search warrant in
4 northeast Washington, D.C. If you look at those 94 guns, it
5 demonstrates the grave consequences of Mr. Perkins's conduct.
6 Guns have been recovered not just all over the greater D.C.
7 metropolitan area, but also as far away as Pennsylvania and
8 New Jersey.

9 And as I noted again in my position paper, Your
10 Honor, five of those guns have been connected to three
11 different homicides. One of the victims of those homicides is
12 Mr. Perkins's own cousin.

13 As I noted in the position paper as well, Your
14 Honor, Mr. -- Mr. Perkins grew up with every advantage and has
15 apparently wanted for very little in his life. Mr. Latsios
16 alluded to some of this. He grew up in a stable middle class
17 household. He had gainful employment for a significant
18 portion of his adult life as an electrician. He -- at least
19 the PSR reflects no evidence of serious mental emotional or
20 substance abuse problems. And he's had a close relationship
21 with his parents. Both of whom appear to be people of faith.
22 You noted that his mother, Your Honor, is a reverend and I
23 believe there was an allusion in one of the letters to his
24 father being a pastor.

25 Now, why do I bring all of this up? I bring it up,

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1 Your Honor, to show that as opposed to other defendants who
2 have serious mitigating circumstances in their lives, Mr.
3 Perkins grew up with no serious disadvantages and has
4 encountered very little in his adult life. He squandered that
5 life to pursue a life of crime and he's been having run-ins
6 with law enforcement consistently now for the last few years.

7 In his position paper Mr. Latsios wrote that Mr.
8 Perkins -- Mr. Perkins's participation in the instant offenses
9 was, "The result of poor decision making and not indicative of
10 a criminal orientation." And Mr. Latsios alluded to that
11 again this afternoon, Your Honor.

12 But the facts of this case belie that claim. Mr.
13 Perkins isn't here today because of one bad decision. He's
14 here today because of hundreds of bad decisions, Your Honor,
15 over the course of several years.

16 And I was struck, Your Honor, in preparing for
17 today's hearing by a line in the letter that Mr. Perkins's
18 mother submitted to the Court. She wrote, "Bobby has always
19 excelled at whatever he put his hands to."

20 Those words certainly ring true, Your Honor. He
21 excelled for quite some time as a drug dealer and a gun
22 runner.

23 And that brings us to the issue of deterrence which
24 the Government believes is a salient consideration with
25 respect to Mr. Perkins.

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1 Mr. Perkins knew he was under investigation by the
2 ATF in the Stafford County Sheriff's Office. He was
3 interviewed by them multiple times over the years and he even
4 told associates of his that he was worried that the ATF was
5 investigating him. And yet for whatever reason, maybe hubris,
6 maybe greed, that didn't stop him for committing these crimes.
7 And there's a temptation in this case, Your Honor, to look at
8 Mr. Perkins's conduct and observe that the peak of his
9 criminal misconduct occurred approximately two or three years
10 ago. And assume that the need for a specific deterrence in
11 this case is abated. But the Government submits that that's
12 not the case and that it's important to consider the
13 circumstances surrounding his arrest on the offenses that have
14 brought him here today.

15 Mr. Perkins was arrested exiting his house and
16 getting into his vehicle. And when the arrest warrant was
17 executed, he had \$1,500 in cash on his person. In the vehicle
18 law enforcement found nearly 500 grams of marijuana. Baggies,
19 scales, a loaded handgun. Subsequently a search of the
20 residence that he had exited was conducted and there was found
21 200 grams of marijuana, a loaded handgun, and four extended
22 magazines, one of which was fully loaded.

23 And this was all while Mr. Perkins was under
24 indictment in Stafford County for felony offenses relating to
25 him shooting a gun at individuals with whom he had been having

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1 a beef, charges that he is scheduled to stand trial on later
2 this year.

3 There's every reason to believe, Your Honor, that
4 but for the intervention of federal law enforcement Mr.
5 Perkins would still be engaged in armed drug dealing today.

6 For these reasons a sentence at the high end of the
7 guidelines is not only reasonable but it's necessary. And the
8 Government, accordingly, asked Your Honor to sentence Mr.
9 Perkins to a total term of imprisonment of 168 months to be
10 followed by a total term of supervised release of five years.
11 Thank you.

12 THE COURT: Mr. Latsios you wish to respond? You
13 don't need to repeat anything, but if there's something you
14 wish to say in addition before I hear from your client's
15 allocution. Does he wish to allocute?

16 MR. LATSIOS: I think he does, Your Honor.

17 The only point I would make, Judge, and Mr.
18 Blanchard pointed out the fact that the conduct here did occur
19 several years ago. Mr. Blanchard is extrapolating in saying,
20 "but for he would continue on." That's speculation. But
21 clearly this happened several years ago.

22 THE COURT: All right. Mr. Perkins, this is now
23 your opportunity to address the Court and to say anything at
24 all you wish of the Court by way of extenuation or mitigation
25 or indeed anything you think the Court should know before

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1 sentence is imposed. You don't have to say anything if you
2 don't wish to, but you do have this opportunity if you do wish
3 to say something.

4 Do you wish to say anything?

5 THE DEFENDANT: Yes, sir, I do.

6 THE COURT: Go ahead, sir.

7 THE DEFENDANT: I was going to say that I understand
8 that every consequence -- I mean every action in life has a
9 consequence and I'm here today because the choices that I had
10 made and I pled guilty to these charges because I feel that I
11 was guilty. But one thing that I wanted to mention, in
12 reading over the Government's position on sentencing, he
13 suggested a lot of like violent things about my nature. And I
14 just wanted to take an opportunity to say that those things
15 couldn't be further from the truth. Like I don't have a
16 violent nature. I'm not a violent person. I don't -- I don't
17 like to deal in violence. And I mean I'm here to -- like
18 accept responsibility for my actions and what -- what may come
19 with that and I would just like to get through it and get back
20 to my family as soon as possible. That's all I have.

21 THE COURT: All right. You may be seated. I'm
22 going to consider for five minutes the arguments of counsel
23 and the allocution and then return to impose sentence. And
24 then I'll proceed directly to the next case, the Riley case.

25 Court stands in recess for five minutes.

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1 (Recess.)

2 THE COURT: All right. Come to the podium, Mr.
3 Perkins.4 Mr. Perkins, you stand convicted on the basis of
5 your plea of three very serious crimes. And the law requires
6 that I take into account a number of factors in imposing an
7 appropriate sentence. First, your personal history and
8 characteristics. Mr. Latsios is correct to point out that you
9 have no criminal history and that you've accomplished some
10 important things in your life. Such as earning your GED at 16
11 after having been left leaving school in the 10th grade. And
12 your work as a firefighter and so forth. All of those are
13 significant achievements. These letters in your behalf are
14 impressive as well. But as Mr. Blanchard points out, you did
15 have a lot of advantages and you squandered them.16 The law requires that I consider the seriousness of
17 the offenses involved. And they are serious. You conspired
18 to distribute and to possess to distribute crack cocaine,
19 heroin, marijuana. Congress has appropriately recognized that
20 those are poisons. Drugs threaten to rend the fabric of our
21 society. They ruin people's lives. I think it was
22 significant too to note, Mr. Perkins, that you're not a drug
23 abuser.

24 Is that correct, Mr. Blanchard?

25 MR. BLANCHARD: As far as the Government knows,

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1 that's correct, Your Honor.

2 THE COURT: It's a poison for other people. The
3 second crime, the use and carrying a firearm in relation.
4 Now, you say you're not a violent person in your allocution.
5 Well, the amount of firearms that you've been involved with
6 points in the other direction. And you dealt almost 300
7 firearms.

8 MR. BLANCHARD: 224, Your Honor.

9 THE COURT: 224. Thank you. Many of them had been
10 -- or some of them, not many, but some of them were recovered
11 in the possession of felons and were used in other crimes.

12 Is that correct, Mr. Blanchard?

13 MR. BLANCHARD: That's right.

14 THE COURT: So I don't think you can claim to be
15 nonviolent. Maybe you didn't shoot somebody and maybe you
16 didn't attack somebody, but you clearly were surrounded by
17 instruments of violence. So the crimes are very serious and
18 Congress has appropriately prescribed severe penalties for
19 those crimes.

20 The law requires that I impose a sentence that
21 promotes respect for the law, that provides just punishment
22 for the offenses, and that serves to deter you and to deter
23 others. I think you do need to be deterred. But I also think
24 it's very important that any sentence I impose on you must
25 stand as a beacon, as a warning to others not to engage in

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1 this conduct.

2 The law requires that I impose a sentence on you
3 that isn't greater than necessary to accomplish the goals of
4 sentencing. But in the end, a sentence is not a mathematical
5 calculation. I'm not bound by the guidelines. They are a
6 factor to consider but they are not mandatory.

7 I've considered all those. And in the end, it is
8 the judgment of this Court that you be committed to the
9 custody of the Bureau of Prisons, with respect to Count 1, for
10 84 months. And that's above the 60-month mandatory minimum,
11 because you were an organizer and leader. And you distributed
12 and intended to distribute substantial amounts of these very
13 pernicious substances. 84 months as to Count 1.

14 For Count 2, the law requires that I impose 60
15 months consecutive to what I imposed on Count 1. And for
16 Count 3, I'm going to impose a 60-month sentence. That is
17 you're committed to the custody of Bureau of Prisons for a
18 period of five years.

19 Now, the reason that that's the maximum is the
20 number of guns involved. It really has to reflect that. The
21 total sentence will be 144 months. That's 60, plus 84, plus
22 60. The 60 for Count 3 will run consecutive to the sentence
23 imposed with respect to Count 1.

24 MR. BLANCHARD: I believe you mean concurrent, Your
25 Honor.

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1 THE COURT: Concurrent. You're correct.

2 Concurrent. Thank you.

3 So 60 months for Count 1. I'm sorry. 84 months for
4 Count 1; 60 months for Count 2 consecutive to Count 1; 60
5 months for Count 3 concurrent to the 84-month sentence imposed
6 on Count 1.

7 Four years of supervised release to follow the
8 period of 84 months imposed on Count 1. Five years of
9 supervised release to follow the 60-month consecutive sentence
10 imposed on Count 2, and three years of supervised release to
11 follow the period of 60 months imposed with respect to Count
12 3. All of those periods of supervised release will
13 run concurrent to each other. So it's a total supervised
14 release term of five years.

15 I didn't think a guideline sentence, Mr. Blanchard,
16 was necessary to deter him and to acknowledge and take into
17 account the seriousness of the offense, but I did think, Mr.
18 Latsios, it had to be more than ten. Count 3 really deserved
19 the maximum sentence for the number of guns involved and the
20 length of time. And Count 1 deserved more than the mandatory
21 minimum because of the role he played in this as well.

22 So 144 months is the total sentence that I have
23 imposed. You'll have to pay a \$100 special assessment for
24 each count for a total of \$300. The Court does not impose any
25 punitive fine or any fine to cover the cost of incarceration

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1 or supervised release in view of his modest assets. And the
2 Court will enter a consent order of forfeiture which covers
3 all of these 200-plus firearms.

4 Now, is there anything else that the Court needs to
5 do with respect to this case today, Mr. Blanchard?

6 MR. BLANCHARD: No, Your Honor.

7 THE COURT: Mr. Latsios, yes, I -- I will recommend
8 that he be designated to serve his sentence at Petersburg so
9 that he may be near his family. Many of whom are here or some
10 of whom are here today and whose letters I reviewed in
11 connection with his sentence.

12 Anything further, Mr. Latsios?

13 MR. LATSIOS: No, Judge. I think that's it.

14 THE COURT: All right. I thank counsel -- oh, the
15 conditions of supervised release.

16 In addition to the standard conditions, you're to
17 participate in and successfully complete a program of
18 substance abuse testing and rehabilitation.

19 Any other special conditions that you would
20 recommend, Mr. Byerley?

21 THE PROBATION: Your Honor, we only recommend that
22 he be required to provide financial information as requested.

23 THE COURT: Yes. I will include that. Tell me
24 this, Mr. Perkins, did you -- how long did you serve in the
25 Marine Corps?

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1 THE DEFENDANT: Three years.

2 THE COURT: And were you honorably discharged?

3 THE DEFENDANT: I had a general discharge.

4 THE COURT: General discharge.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: What resulted in the general discharge?

7 THE DEFENDANT: I was separated for a case that I
8 was -- I was charged with -- I had received a charge in D.C.
9 in 2009 and they separated me before I could go to trial and
10 defend myself and I was found not guilty. I was acquitted.

11 THE COURT: And what was the charge you were
12 acquitted of?

13 THE DEFENDANT: I believe it was possessing of a
14 firearm without a license.

15 THE COURT: All right. Well, that information
16 wouldn't have played any role in my sentencing. I did take
17 into account that you did in fact serve in the Marine Corps
18 and that you got some good training and qualifications in
19 there.

20 I didn't know from -- for sure, but I think Mr.
21 Birely, did you report in the presentence report. I couldn't
22 remember whether it was honorable discharge or a general
23 discharge?

24 THE PROBATION: I would have to look at that, Your
25 Honor.

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1 THE COURT: Well, that's all right. It wouldn't
2 have played a role in any event.

3 Anything further, Mr. Latsios?

4 MR. LATSIOS: No, Your Honor.

5 THE COURT: Mr. Blanchard.

6 MR. BLANCHARD: No, Your Honor.

7 THE COURT: All right.

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9 **(Proceedings adjourned at 12:29 p.m.)**

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CERTIFICATE OF REPORTER

I, Tonia Harris, an Official Court Reporter for the Eastern District of Virginia, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had and testimony adduced upon the Sentencing in the case of the **UNITED STATES OF AMERICA versus BOBBY PERKINS, JR.**, Criminal Action No. 1:18-CR-214, in said court on the 31st day of August, 2018.

I further certify that the foregoing 22 pages constitute the official transcript of said proceedings, as taken from my machine shorthand notes, my computer realtime display, together with the backup tape recording of said proceedings to the best of my ability.

In witness whereof, I have hereto subscribed my name, this September 12, 2018.

Tonia M. Harris
Tonia M. Harris, RPR
Official Court Reporter